

REMARKS

In the Office Action, the Patent Office requires Applicants to elect between one of three groups of invention: Group I (Claims 1-7 and 9-14); Group II (Claims 8 and 15-17); and Group III (Claims 18-24). In response, Applicants elect, without traverse, Group III (Claims 18-24). Applicants, however, reserve the right to file a divisional application directed to the non-elected claims and inventions as defined in Claims 1-17.

If Group III is elected, the Patent Office further requires Applicants to elect an alleged single disclosed species with respect to Claims 19 and 23. Although Applicants believe that the election of species requirement is improper and should be withdrawn, Claims 19 and 23 have been cancelled as previously discussed, thus rendering moot the election of species requirement at this stage in the prosecution. Applicants note for the record that they do not intend to disclaim via the amendment any subject matter as defined by Claims 19 and 23, and thus reserve the right to amend the present application to add claims directed the subject matter as defined in Claims 19 and 23 at a later stage in prosecution.

For example, upon allowance of independent Claim 18, Applicants believe that they should be allowed to amend the present application to reinstate Claims 19 and 23. Of course, “[i]f a linking claim is allowed, the examiner must thereafter examine species if the linking claim is generic thereto, or he or she must examine the claims to the nonelected inventions that are linked to the elected invention by such allowed linking claim.” See, MPEP § 809.04. In this case, Applicants believe that Claim 18 should be considered a linking claim. In general, “genus claims linking species claims...” are considered to be one of the “most common types of linking claims which, if allowed, act to prevent restriction between inventions. . .”. See, MPEP § 809.03.

Independent Claim 18 recites a method of treatment or prevention of a GI tract disorder which includes administering an effective amount of a CD14 variant or fragment thereof which retains the bioactivity of CD14. Clearly, Claim 18 is genus to Claims 19 and 23 which each recite that the GI tract disorder can include a number of different diseases. Indeed, the Patent Office does not even appear to refute this position. Therefore, Applicants believe that they should be able to reinstate Claims 19 and 23 or other linkable claimed subject matter upon allowance of Claim 18 or other allowable linking claim and thus the reinstated claims should be examined on the merits without restriction.

Accordingly, Applicants elect to prosecute Claims 18, 21, 22 and 24 of Group III at this stage in the prosecution and reserve the right to prosecute the nonelected claims at a later stage during the pendency of the above-referenced patent application or continuation application thereof.

In the Office Action, the Patent Office asserts that the present application fails to comply with the requirements of 37 CFR 1.821-1.825 for the reasons set forth in the Notice to Comply With Requirements For Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures ("Notice to Comply") attached to the Office Action. A copy of the Notice to Comply is attached herewith.

In response, Applicants respectfully submit herewith an initial computer readable form copy of the "Sequence Listing" and an initial paper copy of the "Sequence Listing". Applicants state that the information recorded in computer readable form is identical to the written sequence listing that was filed herewith. Further, Applicants have amended the Specification to direct entry therein of the initial paper copy of the "Sequence Listing". Applicants believe that no new matter has been added.

Accordingly, Applicants respectfully submit that the requirements with respect to the Notice to Comply have been fully satisfied.

Attached hereto is a marked-up version of the changes made to the specification and the claims by the current amendment. The attached page is captioned "**Versions with Markings to Show Changes Made.**"

For the foregoing reasons, Applicants respectfully request an early and favorable examination of their patent application.

Respectfully submitted,

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the Specification:

Please add the attached Sequence Listing to the previously-submitted substitute specification regarding the present application.

In the Claims:

Claims 19 and 23 have been cancelled without prejudice or disclaimer.